IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

Crl.MC.No. 328 of 2007()

CRIME NO.78/2005 OF PALLITHOTTAM POLICE STATION.

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PETITIONER:

NIYAS, AGED 29 YEARS,
S/O. SHAHUL HAMEED, THODALIL PURAYIDAM,
BEACH SOUTH, JONAKAPURAM, KOLLAM.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.DILEEP P.PILLAI

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.328 of 2007

Dated this the 13th day of February, 2007

ORDER

The petitioner is an accused in a prosecution, inter alia, under Section 308 read with 149 I.P.C. Cognizance has been taken. The petitioner has not entered appearance so far. A non bailable warrant is issued against the petitioner and the petitioner in these circumstances wants to surrender before the learned Magistrate. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has hence come to this Court with a prayer that direction under Section 482 Cr.P.C may be issued to the learned Magistrate to release him on bail when he appears.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-